

AMENDED IN SENATE MARCH 28, 2014

AMENDED IN SENATE MARCH 26, 2014

SENATE BILL

No. 973

Introduced by Senator Hernandez

February 10, 2014

An act to amend Sections 11839.3, 11839.22, and 11839.24 of the Health and Safety Code, relating to narcotic treatment.

LEGISLATIVE COUNSEL'S DIGEST

SB 973, as amended, Hernandez. Narcotic treatment programs.

Existing law requires the State Department of Health Care Services to administer prevention, treatment, and recovery services for alcohol and drug abuse. Existing law requires the department to license the establishment of narcotic treatment programs in this state to use narcotic replacement therapy in the treatment of addicted persons whose addiction was acquired or supported by the use of a narcotic drug or drugs, not in compliance with a physician and surgeon's legal prescription. Existing law authorizes a program to admit a patient to narcotic maintenance or narcotic detoxification treatment 7 days after completion of a prior withdrawal treatment episode.

This bill, instead, would authorize a program to admit a patient to narcotic maintenance or narcotic detoxification treatment at the discretion of the medical director and would require the program to assign a unique identifier to, and maintain an individual record of, each patient of the program. The bill would also authorize the program operation guidelines for narcotic treatment programs to include accurate, reliable, and medically necessary body fluid analysis.

Existing law specifies the intent of the Legislature that take-home dosage of the narcotic replacement only be provided when the patient

is clearly adhering to the requirements of the program and where daily attendance at a clinic would be incompatible with gainful employment, education, and responsible homemaking.

This bill, in addition, would authorize take-home dosage to be provided to patients who are clearly adhering to the requirements of the program where daily attendance at a clinic would be incompatible with retirement or medical disability or if the program is closed on Sundays or holidays and providing a take-home dose is not contrary to federal laws and regulations. The bill would prohibit a narcotic treatment program from providing a take-home dosage that requires dilution.

Existing law requires substance abuse testing for narcotic treatment programs to be performed by a laboratory approved and licensed by the State Department of Public Health.

This bill would ~~authorize~~ *require* a narcotic treatment program to have samples from each patient's urinalysis or other body fluid test collected and analyzed for evidence of specified substances, including methadone, opiates, and cocaine, and would authorize the program to test for evidence of other illicit drugs if those drugs are commonly used in the area served by the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11839.3 of the Health and Safety Code
2 is amended to read:
3 11839.3. (a) In addition to the duties authorized by other
4 statutes, the department shall perform all of the following:
5 (1) License the establishment of narcotic treatment programs
6 in this state to use narcotic replacement therapy in the treatment
7 of addicted persons whose addiction was acquired or supported
8 by the use of a narcotic drug or drugs, not in compliance with a
9 physician and surgeon's legal prescription, except that the Research
10 Advisory Panel shall have authority to approve methadone or
11 LAAM research programs. The department shall establish and
12 enforce the criteria for the eligibility of patients to be included in
13 the programs, program operation guidelines, including dosage
14 levels, recordkeeping and reporting, urinalysis or other accurate,
15 reliable, and medically necessary body fluid analysis requirements,
16 take-home doses of controlled substances authorized for use

1 pursuant to Section 11839.2, security against redistribution of the
2 narcotic replacement drugs, and any other regulations that are
3 necessary to protect the safety and well-being of the patient, the
4 local community, and the public, and to carry out this chapter. A
5 program may admit a patient to narcotic maintenance or narcotic
6 detoxification treatment at the discretion of the medical director.
7 The program shall assign a unique identifier to, and maintain an
8 individual record for, each patient of the program. The arrest and
9 conviction records and the records of pending charges against a
10 person seeking admission to a narcotic treatment program shall be
11 furnished to narcotic treatment program directors upon written
12 request of the narcotic treatment program director provided the
13 request is accompanied by a signed release from the person whose
14 records are being requested.

15 (2) Inspect narcotic treatment programs in this state and ensure
16 that programs are operating in accordance with the law and
17 regulations. The department shall have sole responsibility for
18 compliance inspections of all programs in each county. Annual
19 compliance inspections shall consist of an evaluation by onsite
20 review of the operations and records of licensed narcotic treatment
21 programs' compliance with applicable state and federal laws and
22 regulations and the evaluation of input from local law enforcement
23 and local governments, regarding concerns about the narcotic
24 treatment program. At the conclusion of each inspection visit, the
25 department shall conduct an exit conference to explain the cited
26 deficiencies to the program staff and to provide recommendations
27 to ensure compliance with applicable laws and regulations. The
28 department shall provide an inspection report to the licensee within
29 30 days of the completed onsite review describing the program
30 deficiencies. A corrective action plan shall be required from the
31 program within 30 days of receipt of the inspection report. All
32 corrective actions contained in the plan shall be implemented
33 within 30 days of receipt of approval by the department of the
34 corrective action plan submitted by the narcotic treatment program.
35 For programs found not to be in compliance, a subsequent
36 inspection of the program shall be conducted within 30 days after
37 the receipt of the corrective action plan in order to ensure that
38 corrective action has been implemented satisfactorily. Subsequent
39 inspections of the program shall be conducted to determine and
40 ensure that the corrective action has been implemented

1 satisfactorily. For purposes of this requirement, “compliance” shall
2 mean to have not committed any of the grounds for suspension or
3 revocation of a license provided for under subdivision (a) of
4 Section 11839.9 or paragraph (2) of subdivision (b) of Section
5 11839.9. Inspection of narcotic treatment programs shall be based
6 on objective criteria including, but not limited to, an evaluation of
7 the programs’ adherence to all applicable laws and regulations and
8 input from local law enforcement and local governments. Nothing
9 in this section shall preclude counties from monitoring their
10 contract providers for compliance with contract requirements.

11 (3) Charge and collect licensure fees. In calculating the licensure
12 fees, the department shall include staff salaries and benefits, related
13 travel costs, and state operational and administrative costs. Fees
14 shall be used to offset licensure and inspection costs, not to exceed
15 actual costs.

16 (4) Study and evaluate, on an ongoing basis, narcotic treatment
17 programs including, but not limited to, the adherence of the
18 programs, to all applicable laws and regulations and the impact of
19 the programs on the communities in which they are located.

20 (5) Provide advice, consultation, and technical assistance to
21 narcotic treatment programs to ensure that the programs comply
22 with all applicable laws and regulations and to minimize any
23 negative impact that the programs may have on the communities
24 in which they are located.

25 (6) In its discretion, to approve local agencies or bodies to assist
26 it in carrying out this chapter provided that the department may
27 not delegate responsibility for inspection or any other licensure
28 activity without prior and specific statutory approval. However,
29 the department shall evaluate recommendations made by county
30 alcohol and drug program administrators regarding licensing
31 activity in their respective counties.

32 (7) The director may grant exceptions to the regulations adopted
33 under this chapter if he or she determines that this action would
34 improve treatment services or achieve greater protection to the
35 health and safety of patients, the local community, or the general
36 public. No exception may be granted if it is contrary to, or less
37 stringent than, the federal laws and regulations that govern narcotic
38 treatment programs.

39 (b) It is the intent of the Legislature in enacting this section, in
40 order to protect the general public and local communities, that

1 take-home dosage shall only be provided when the patient is clearly
2 adhering to the requirements of the program, and where daily
3 attendance at a clinic would be incompatible with gainful
4 employment, education, responsible homemaking, retirement or
5 medical disability, or if the program is closed on Sundays or
6 holidays and providing a take-home dose is not contrary to federal
7 laws and regulations governing narcotic treatment programs. The
8 department shall define “satisfactory adherence” and shall ensure
9 that patients not satisfactorily adhering to their programs shall not
10 be provided take-home dosage. A narcotic treatment program shall
11 not provide a take-home dosage that requires dilution.

12 (c) There is established in the State Treasury the Narcotic
13 Treatment Program Licensing Trust Fund. All licensure fees
14 collected from the providers of narcotic treatment services shall
15 be deposited in this fund. Except as otherwise provided in this
16 section, if funds remain in this fund after appropriation by the
17 Legislature and allocation for the costs associated with narcotic
18 treatment licensure actions and inspection of narcotic treatment
19 programs, a percentage of the excess funds shall be annually
20 rebated to the licensees based on the percentage their licensing fee
21 is of the total amount of fees collected by the department. A reserve
22 equal to 10 percent of the total licensure fees collected during the
23 preceding fiscal year may be held in each trust account to reimburse
24 the department if the actual cost for the licensure and inspection
25 exceed fees collected during a fiscal year.

26 (d) Notwithstanding any provision of this code or regulations
27 to the contrary, the department shall have sole responsibility and
28 authority for determining if a state narcotic treatment program
29 license shall be granted and for administratively establishing the
30 maximum treatment capacity of a license. However, the department
31 shall not increase the capacity of a program unless it determines
32 that the licensee is operating in full compliance with applicable
33 laws and regulations.

34 SEC. 2. Section 11839.22 of the Health and Safety Code is
35 amended to read:

36 11839.22. The state department shall require a system to detect
37 multiple registrations by narcotic treatment program patients.

38 SEC. 3. Section 11839.24 of the Health and Safety Code is
39 amended to read:

1 11839.24. (a) Substance abuse testing for narcotic treatment
2 programs operating in the state shall be performed only by a
3 laboratory approved and licensed by the State Department of Public
4 Health for the performance of those tests.

5 (b) A narcotic treatment program ~~may~~ *shall* have samples from
6 each patient's urinalysis or other bodily fluid test collected and
7 analyzed for evidence of the following substances in a patient's
8 system:

9 (1) Methadone and its primary metabolite.

10 (2) Opiates.

11 (3) Cocaine.

12 (4) Amphetamines.

13 (5) Benzodiazepines.

14 (c) A narcotic treatment program may have samples from each
15 patient's urinalysis or other bodily fluid test collected and analyzed
16 for evidence of other illicit drugs if those drugs are commonly
17 used in the area served by the narcotic treatment program.